

## REMARKS/ARGUMENTS

Reconsideration of this Application and entry of this Amendment after Final are respectfully requested. The proposed amendment places the claims in better form for appeal. Additionally, this amendment addresses items brought up by the examiner in the final office action. In view of the amendments and following remarks, favorable consideration and allowance of the application is respectfully requested.

### Status of the Claims

Claims 1-14 are pending, with claims 3 and 7-14 having been provisionally withdrawn as being drawn to a non-elected invention. Claim 1 has been amended. No new matter has been added by these amendments.

### 35 U.S.C. §102 Rejections

Claims 1-2, 4 and 5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Berthiaume (US Patent 5,846,259). Applicant traverses this rejection because Berthiaume fails to disclose all the elements of the claims. Currently amended claim 1 requires, in part:

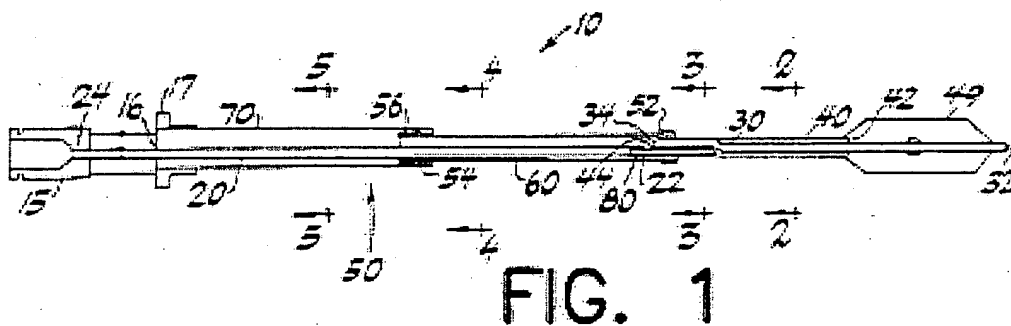
a long, continuous aspiration shaft having a fixed length and an aspiration lumen extending between a distal aspiration port disposed at a distal tip of said aspiration [[shaft]] catheter and a proximal aspiration port disposed at a proximal end of said aspiration [[shaft]] catheter . . .

According to the current amendment, a distal aspiration port is now claimed as being disposed at a distal tip of the catheter, rather than at a distal tip of the shaft. Additionally, a proximal aspiration port is now claimed as being disposed at a proximal end of the catheter, rather than at a proximal end of the shaft. Thus, the distal and proximal aspiration ports are now claimed as being disposed at locations corresponding to Berthiaume's elements 32 and 24, as argued by the Examiner. Therefore, the current amendment should be entered because it requires no additional searching by the Examiner.

However, applicant avers that the Examiner has mischaracterized the teachings of Berthiaume with respect to the claimed continuous aspiration shaft and aspiration lumen. In particular, at page 2, last paragraph of the Final Office Action, the Examiner stated

Berthiaume discloses an aspiration catheter (10) comprising a long, continuous aspiration shaft (20) having a fixed length and an aspiration lumen extending between a distal aspiration port (32) disposed at a distal tip of said aspiration shaft and a proximal aspiration port (24) disposed at a proximal end of the aspiration shaft . . .

Applicant contends that the elements cited by the Examiner, and as illustrated in Berthiaume's FIG. 1 below, do not teach all the limitations of claim 1, as currently amended.



The Examiner has cited Berthiaume's element 20 as extending between elements 32 and 24 in order to meet the limitations of claim 1. Applicant argues that Berthiaume's shaft 20 does not extend to open distal end 32: "The inflation shaft 20 does not extend for the entire length of catheter 10." See column 4, lines 11-12. Rather, inflation shaft 20 extends only as far as open distal end 22, which is substantially distant from open distal end 32. Furthermore, inflation lumen 26 within inflation shaft 20 is not in physical or fluid communication with open distal end 32. Thus, Berthiaume's shaft 20 cannot be considered to disclose the aspiration shaft required in part by claim 1, as amended. Claims 2, 4 and 5 depend from

Claim 1 and are patentable for the same reasons that claim 1 is patentable. In view of the above remarks, Applicant requests that this rejection be withdrawn.

35 U.S.C. §103 Rejections

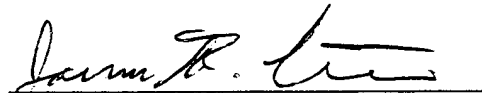
Claim 6 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Berthiaume '259, in view of Ellis et al. (US Patent 5,514,093). Applicant traverses this rejection because Berthiaume fails to disclose the device now claimed in claim 1. Ellis fails to provide the claim elements absent from Berthiaume. Claim 6 depends from claim 1 and is patentable for the same reasons that claim 1 is patentable.

In view of the above remarks, Applicant requests that this rejection be withdrawn.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (978) 739-3075 (Eastern Time).

Respectfully submitted,



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